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Detailed Fiscal Analysis

The bill defines "human cloning" as the creation of a human zygote, human blastocyst, or human embryo by any means other than the fertilization of a human egg by human sperm. With one exception, the bill prohibits any person or governmental entity from knowingly performing or attempting to perform human cloning, participating in the performance or attempted performance of human cloning, or sending or receiving an embryo that is produced by human cloning or any product derived from that embryo. This prohibition does not restrict the areas of scientific research that do not involve the creation or use of a human embryo produced by human cloning or any product derived from a human embryo produced by human cloning. The areas of research that are not restricted by this prohibition include, but are not limited to, the use of nuclear transfer or other cloning techniques to produce molecules, DNA, tissues, organs, plants, animals other than humans, or cells other than human embryos.

A violation of the cloning prohibition could result in a term of imprisonment of not more than two years. If pecuniary gains are derived, the violator could be subject to a fine of not less than \$250,000, or if the pecuniary gain is more than \$250,000, not more than twice the amount of the gross pecuniary gain.

As of this writing, it appears, that the number of alleged violations of the bill's prohibition that would be investigated and prosecuted annually will be relatively small. Assuming that were true, then the number of offenders that might be sentenced to prison annually for such a violation will likely be extremely small, which means that any related increase in the Department of Rehabilitation and Correction's GRF-funded incarceration costs would be minimal at most.

It also is possible that the state will gain locally collected state court costs that are deposited to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 4020). If, as previously suggested, the number of violators of the bill's prohibition annually statewide will likely be extremely small, then the amount of court cost revenue that would be gained by either state fund is likely to be negligible per year.

If one assumes that investigations and subsequent prosecutions of alleged violations of the bill's prohibition will generally be rare, then the associated costs for most county criminal justice systems would not be significant. There is always, however, the possibility that a given case could be quite complex and expensive, but these cannot be predicted with any reliability. It is also difficult to predict if and when a given county might actually collect a pecuniary gain-based fine of \$250,000 or more.

It is unclear at this time how the investigative process would proceed. The very nature of the offense would appear to create certain difficulties for local criminal justice officials charged with the

responsibility of conducting the investigation and subsequent prosecution. If these local criminal justice officials received a complaint concerning human cloning, it is uncertain whether those officials would have the resources, including the requisite specialized expertise, needed to handle such matters.

Lastly, according to the United States Food and Drug Administration (FDA) web site, "the FDA has the authority to regulate medical products, including biological products, drugs, and devices. The use of cloning technology to clone a human being would be subject to both the biologics provisions of the Public Health Service Act and the drug and device provisions of the Federal Food, Drug, and Cosmetic Act." As such, human cloning is subject to FDA regulation. Researchers would be forced to submit an investigational new drug application to the FDA before research would be allowed to proceed. Since there are still questions regarding the safety of human cloning, it is unlikely that the FDA would allow any human cloning research to be conducted at this time.¹ If human cloning research was conducted in Ohio, it is likely that the FDA would become involved in the investigation.

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¹ <http://www.fda.gov/ola/2001/humancloning.html>